

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE: CAPITAL ONE CONSUMER)
DATA SECURITY BREACH LITIGATION) MDL No. 1:19md2915 (AJT/JFA)
_____)

ORDER

This matter is before the court on plaintiffs' motion to compel response to plaintiffs' interrogatory no. 22 to AWS. (Docket no. 2096). This motion has been briefed by the parties (Docket nos. 2097/2103, 2114, and 2119/2120) and the court indicated in an earlier order that it would be decided without oral argument (Docket no. 2129).

Plaintiffs' motion involves an interrogatory that was served on AWS after considerable discussions following earlier discovery to AWS and Capital One involving a significant "spike" in the amount of data in Capital One's AWS account that was subject to GetObject activity on March 28, 2019, several days after the data breach incident involved in this action. On March 24, 2021, AWS agreed to provide substantive responses to three interrogatories in the form that had been proposed subject to objections as to the paraphrasing of certain transcripts. (Docket no. 2103-8). Plaintiffs then served the interrogatories and on April 2, 2021, AWS served its objections and responses. (Docket no. 2097-4). Almost two months later, plaintiffs sent a letter to AWS concerning the responses and AWS responded to that letter on June 24, 2021. (Docket no. 2097-5). Over two months later, on September 7, 2021, plaintiffs responded to AWS' letter indicating that AWS' clarification resolved any dispute with subparts (a) and (d) of interrogatory 22, but asserted AWS failed to fully respond to subparts (b) and (c). (Docket no. 2103-9).

Having reviewed the parties' briefs, the exhibits attached to the briefs, and having reviewed AWS' response to interrogatory 22, the court finds that the response to subpart (b) is

complete and responds to the substance of the request. Subpart (b) seeks information concerning the “ultimate findings” concerning the GetObject requests on March 28, 2019. As stated in the response, AWS did not make a conclusion (or finding) as to whether all the GetObject requests on March 28, 2019 originated from and all data associated with those GetObject requests were exfiltrated to IPs owned by Capital One.

However, it is unclear if AWS has provided plaintiffs with the information requested in subpart (c), concerning the specific sourceIP address(s) for the GetObject requests described in the interrogatory. The response to this interrogatory served by AWS does not address subpart (c) and AWS' opposition to the motion to compel does not address the information requested in subpart (c). Even though discovery ended in this case long ago, AWS agreed to provide a "substantive" response to a request to provide specific sourceIP address(es) for the GetObject requests described in the interrogatory. For that reason, the court finds that if AWS has not provided a substantive response providing the information requested in subpart (c), it must do so within eleven days from the date of this order.

For these reasons, it is hereby

ORDERED that plaintiffs' motion to compel is granted in part and denied in part.

Entered this 22nd day of November, 2021.

 /s/ JFA
~~John F. Anderson~~
~~United States Magistrate Judge~~
John F. Anderson
United States Magistrate Judge

Alexandria, Virginia